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I hereby certify that this correspondence is being deposited with the U.S. Postal Service with sufficient postage as First Class Mail, in an envelope addressed to: MS Petition, Commissioner for Patents, Washington, DC 20231, on the date shown below.

Dated: November 7, 2005

Signature:

Bryan J. Lepore

Docket No.: 29939/03004A  
(PATENT)



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Re Brandi Loucks et al.

Application No.: 10/773,389

Art Unit: 3727

Filed: February 5, 2004

Examiner: Not Yet Assigned

For: LAUNDRY BASKET WITH HIP HUGGING  
FEATURE

**PETITION TO REVIVE UNINTENTIONALLY ABANDONED APPLICATION  
PURSUANT TO 37 C.F.R. §1.137(b)**

MS Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

Dear Sir:

Applicants, through their undersigned attorney, hereby petition under the provisions of 37 C.F.R. §1.137(b) to revive the above-identified unintentionally abandoned application. The application became unintentionally abandoned on February 7, 2005, for failure to respond to a Notice to File Missing Parts dated May 10, 2004. Applicants are filing this Petition to Revive in order to file an appropriate Response and 37 C.F.R. §1.47 Petition to the aforementioned Notice to File Missing Parts.

The Response and §1.47 Petition are attached herewith. Supporting documentation for the Response and §1.47 Petition also accompany these papers. A Combined Declaration of Facts for Petition to Revive Application Under 37 C.F.R. §1.137(b) and for Petition Under 37 C.F.R. §1.47, including Exhibits A-G, also accompany these papers.

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For all of the reasons summarized below and set forth in detail in the Combined Declaration of Facts, the undersigned hereby states that the entire delay in filing the missing parts response from the deadline for doing so until the filing of this petition was unintentional.

### **SUMMARY OF FACTS**

For a detailed statement of facts in support of this Petition to Revive, please see the accompanying Combined Declaration of Facts, which supports both this petition and a separate petition under §1.47.

This application was file on February 5, 2004 without a signed Declaration of the three co-inventors. A Missing Parts Notice was mailed on May 10, 2004, with a non-extendable response due date of December 10, 2004. Nearing this due date, the undersigned had unintentionally still not obtained either an executed Declaration of Mr. Frederick J. Reber, one of the three co-inventors, or sufficient facts to file a response and Petition under 37 C.F.R. §1.47.

*To avoid abandonment of this application and to retain the ability to later submit the necessary Declaration and/or §1.47 Petition*, the undersigned filed a continuation application Serial No. 11/009,722 on December 10, 2005, which claimed priority benefit of this application. A Declaration executed by the two cooperative co-inventors and a Petition under §1.47 for Mr. Reber were submitted in the continuation application in a missing parts Response dated March 21, 2005. The response and Petition was dismissed in a Dismissal paper received by the undersigned on June 16, 2005. Dismissal was based in part because of an alleged lack of sufficient proof of reasonable effort to locate Mr. Reber, and in part because the executed Declaration was for this application, not the continuation application. Only then did the undersigned realize that filing the continuation application to keep this application alive was perhaps not the correct course of action to take to avoid abandoning patent rights in this application.

The undersigned believed at the time that filing the continuation application was proper because the continuation application did not contain any subject matter that would have been new matter to this application, and thus would not have required a newly executed Declaration. *See, e.g., M.P.E.P. §201.06(c) ("37 C.F.R. §1.63(d) provides that a newly executed*

oath or declaration is not required in a continuation or divisional application filed by all or by fewer than all of the inventors named in a prior nonprovisional application containing a signed oath or declaration as required by 37 C.F.R. §1.63, provided that a copy of the signed oath or declaration filed in the prior application is submitted for the continuation or divisional application and the specification and drawings filed in the continuation or divisional application do not contain any new subject matter that would have been new matter in the prior application").

For the reasons explained in detail in the accompanying Combined Declaration of Facts, the delay in filing the Petition to Revive this application was, thus, unintentional. At no point in time did Applicants deliberately permit this application to become abandoned, as described in Manual of Patent Examining Procedure (M.P.E.P.) §711.03(c). The continuation application was filed in an attempt, though perhaps erroneous, *to specifically prevent this application from becoming abandoned*, i.e., to retain all patent rights accorded this application. In view of the facts and circumstances, the instant circumstances are entirely different from one concluding that "the claims are unpatentable" or "that a rejection in an Office action cannot be overcome," or that the "invention lacks sufficient commercial value to justify continued prosecution," all of which are examples of "deliberately permitting an application to become abandoned," in the M.P.E.P. See M.P.E.P. §711.03(c).

For all of the foregoing reasons, this application was unintentionally abandoned. No terminal disclaimer is believed to be required, because this application was filed after June 8, 1995.

Entry and granting of the foregoing petition is believed to be in order, and is respectfully solicited.

A check in the amount of \$1500 is submitted herewith to cover the petition fee set forth in §1.17(m). No additional extension of time fee is believed due. At the time of filing the continuation application on December 10, 2004, a petition and fee for a five (5) month extension of time was submitted in this application to permit filing of the continuation.

Any additional required fee may be charged to our deposit account no. 13-2855. Any overpayment should be refunded to the undersigned's law firm at the indicated address.

If the petition examiner would like to discuss the foregoing, or any matter of form or procedure, he or she is urged to telephone the undersigned at the indicated number.

November 7, 2005

Respectfully submitted,

By  \_\_\_\_\_

Bryan J. Lempia  
Registration No. 39,746  
MARSHALL, GERSTEIN & BORUN  
6300 Sears Tower  
233 South Wacker Drive  
Chicago, Illinois 60606-6402  
(312) 474-6300  
Attorney for Applicants

I hereby certify that this correspondence is being deposited with the U.S. Postal Service with sufficient postage as First Class Mail, in an envelope addressed to: MS Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below.

Dated: November 7, 2005

Signature: *Bryan J. Lempia*  
(Bryan J. Lempia)

Docket No.: 29939/03004A  
(PATENT)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of:  
Brandi Loucks et al.

Application No.: 10/773,389

Filed: February 5, 2004

Art Unit: 3727

For: Laundry Basket with Hip Hugging Feature

Examiner: Not Yet Assigned

**COMBINED DECLARATION OF FACTS FOR PETITION TO REVIVE  
APPLICATION UNDER 37 C.F.R. 1.137(B) AND FOR PETITION UNDER 37 C.F.R.  
1.47(A)**

MS Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

I, Bryan J. Lempia, hereby state as follows:

1. I make this Declaration of Facts regarding facts and circumstances known to me concerning the unintentionally abandonment of this application and the inability to secure a signed or executed Declaration of one of three co-inventors in the above-identified application.

2. I am authorized by Rubbermaid, Inc. (hereinafter "Rubbermaid"), the as-of-yet unrecorded assignee of the above-identified patent application (hereinafter "application"), to make these statements in my capacity as patent counsel. I am also authorized by two of the three inventors, Brandi Loucks (Ms. Loucks) and Thomas W. Scherer (Mr. Scherer), both of whom have executed a Declaration and Power of Attorney in the application, to act both for themselves and on behalf of their non-signing co-inventor, Frederick J. Reber (Mr. Reber).

3. Copies of the as-of-yet unrecorded executed Assignment pages and the executed Declaration pages for Ms. Loucks and Mr. Scherer are submitted herewith together as *Exhibit A*.

4. To date, neither I nor anyone at Rubbermaid or Marshall, Gerstein & Borun LLP has been able to either locate or contact Mr. Reber. Mr. Reber is a former employee of Rubbermaid and is properly named as a co-inventor of the subject matter of the application.

5. The last known residential address for Mr. Reber is:

Mr. Frederick J. Reber  
6262 Newkirk Road  
Shreve, Ohio 44676

Multiple database searches and telephone calls have revealed no new or updated accurate address information for Mr. Reber, as explained in more detail below.

6. A Notice to File Missing Parts of Nonprovisional Application was mailed in the application by the Patent Office on May 10, 2004. A copy of the Notice is attached hereto as *Exhibit B*.

7. On April 13, 2004, I sent a letter to Ms. Lynn Browning (Ms. Browning), the intellectual property paralegal and coordinator for Rubbermaid, enclosing a Declaration and Assignment for execution by the inventors, Ms. Loucks, Mr. Scherer, and Mr. Reber. Knowing Rubbermaid was undergoing significant engineering personnel transition at that time, I included in the letter that Rubbermaid should let me know if any of the inventors was no longer with Rubbermaid. A copy of the April 13, 2004 letter is attached hereto as part of *Exhibit C*.

8. On June 8, 2004, I sent a second letter to Ms. Browning reminding her to please have two of the inventors, Ms. Loucks and Mr. Reber, sign and date the previously

sent Declaration and Assignment documents for this application, as we had not yet received such documents. I also reminded Ms. Browning in this letter to let me know if either Ms. Loucks or Mr. Reber had left the employ of Rubbermaid. A copy of the June 8, 2004 letter is attached hereto as part of *Exhibit C*.

9. On August 3, 2004, I sent an e-mail to Ms. Browning explaining to her that we had received the signed declaration and assignment from two of the three inventors, Ms. Loucks and Mr. Scherer, and also asking her to contact Mr. Reber and acquire his signature on a Declaration for the application. A copy of this e-mail is attached hereto as part of *Exhibit C*.

10. On August 3, 2004, Ms. Browning sent a reply e-mail to me indicating that she sent Mr. Reber a second request, and, further, that she did not have a current phone number for him. I inferred from this information at that time that Mr. Reber was likely no longer employed at Rubbermaid. A copy of this e-mail is attached hereto as part of *Exhibit C*.

11 During a telephone conversation with Ms. Browning on or about August 3, 2004, it was decided that we wait for Mr. Reber to return the executed Declaration and Assignment documents sent by Ms. Browning to his home. This decision was based on my own personal dealings with and impression of Mr. Reber, on Mr. Reber having been in a responsible engineering management position with Rubbermaid at the time of his termination, and on Mr. Reber's reputation within Rubbermaid as a highly responsible and cooperative individual.

12. After hearing nothing, I contacted Ms. Browning again by e-mail on November 14, 2004, asking for Mr. Reber's last known address and phone number. On

November 15, 2004, Ms. Browning replied only with Mr. Reber's last known address, his telephone number being unknown. Copies of these two e-mails are also attached hereto as part of *Exhibit C*.

13. On November 29, 2004, I sent two copies of a package including a cover letter, application papers, a Declaration, and an Assignment directly to Mr. Reber at his last known address noted above in Paragraph 4. A copy was sent both by Federal Express and by U.S. Postal Service Certified Mail. A copy of the letter shows the Certified tracking number 7002 0860 004 6890 6761 and also shows the Federal Express overnight tracking number 6253 0286 5206. A copy of the November 29 letter is also attached hereto as part of *Exhibit C*.

14. The Federal Express package was intentionally sent as deliverable without proof of signature so that the package would be left at Mr. Reber's last known address, regardless of whether someone was there to accept it. The documents enclosed in the Federal Express package were neither executed nor returned by Mr. Reber.

15. The Certified Mail package was never accepted, picked up, or signed for by Mr. Reber or anyone else at the last known address indicated above in Paragraph 4, and instead was returned to my firm.

16. Proof of the facts in paragraphs 14 and 15 above was not obtained by me before the non-extendable deadline of December 10, 2004 to response to the missing parts notice and to submit the Declaration in the application. To avoid the application becoming abandoned and to retain the opportunity to file the Declaration and a 37 C.F.R. §1.47 Petition for Mr. Reber, I erroneously filed a Continuation Application Serial No. 11/009,722 on December 10, 2004 (the continuation application), which claims priority to the application.



17. The Certified Mail package was eventually returned to my firm as being unclaimed by the addressee, Mr. Reber. A copy of the envelope containing the matching Certified Mail label and the "unclaimed" stamp thereon is attached hereto as part of *Exhibit*

C. Mr. Reber either no longer lived at that address or had refused to accept the package.

18. A Missing Parts Notice was mailed in the continuation application on February 14, 2005. I submitted the original signed Declaration pages for Ms. Loucks and Mr. Scherer and a §1.47 Petition for Mr. Reber on March 21, 2005 to the Patent Office in response to the Notice. A copy of this response is attached hereto as part of *Exhibit D*.

19. The §1.47 Petition in the continuation application was dismissed by the Patent Office in a Dismissal mailed June 7, 2005. A copy of the Dismissal is attached hereto as part of *Exhibit D*. Only after reviewing the Dismissal, numerous telephone calls to the Patent Office for assistance, and considering how to respond to same, I discovered that the course of action taken (i.e., filing the continuation application) to prevent the application from lapsing, was unintentionally erroneous. Since that time, I have: 1) discovered that the application must be revived, 2) that the Declaration and the §1.47 Petition pertaining to Mr. Reber must be submitted and accepted in the application, not in the continuation application, and 3) undertaken gathering these facts and preparing these papers.

20. Earlier undocumented and more recent multiple database searches (on Yahoo's search engine using the People Search feature) and telephone calls have revealed no new or updated accurate address information for Mr. Reber. Specifically, as set forth in her declaration attached hereto as part of *Exhibit E*, on August 4, 2005, Ms. Meggan F. Duffy (Ms. Duffy) of Marshall, Gerstein & Borun LLP spoke with Ms. Browning via telephone. Ms. Browning stated that Rubbermaid's records indicate Mr. Reber's full name is Frederick J.

Reber and, further, that his last known address on file with Rubbermaid Human Resources is still:

6262 Newkirk Road  
Shreve, Ohio 44676

21. Again, recent multiple searches on Yahoo's search engine have revealed no new or updated accurate address information for Mr. Reber. For example, as shown in the Yahoo People Search documentation dated August 4, 2005, and attached hereto as part of *Exhibit F*, there were no people matching "Fred Reber" in a Yahoo People Search directed to Ohio. In addition, a Yahoo People search directed to the entire U.S.A. dated August 3, 2005 provided nine search results, none of which, however, exactly matched Mr. Reber's full name, Mr. Frederick J. Reber, as provided to us by Rubbermaid's Human Resources department. A copy of the nationwide search results are attached hereto as part of *Exhibit F*.

22. The closest match was a "Fred J. Reber" of St. Joseph, Minnesota. This search data was the only one including Mr. Reber's correct middle initial. As a result, we tried to contact the Mr. Fred Reber at the Minnesota phone number. Specifically, Ms. Muriel H. Gallaher (Ms. Gallaher) telephoned this number on or about the first week of August, 2005. As explained in her declaration attached hereto as *Exhibit G*, Ms. Gallaher spoke with an unidentified woman after dialing the Minnesota number and asked this woman whether a Mr. Reber, who Ms. Gallaher identified as formerly of Rubbermaid and a U.S. inventor, was available. As provided in Ms. Gallaher's declaration, this woman stated that Mr. Reber "is no longer here so it would just be futile." She was hostile and provided no additional confirmation or information.

23. Upon information and belief, Mr. Reber was terminated as an employee of Rubbermaid between the time of filing the application on February 5, 2004, and the time of

August 3, 2004 when I inferred he no longer was employed by Rubbermaid. I have been unable to locate or contact Mr. Reber, and others at my firm and at Rubbermaid have also been unable to locate or contact him. As of today, Mr. Reber has not been located and/or has refused to pick up or acknowledge receipt of any packages mailed to his last known address and relating to the application. Thus, Mr. Reber is either an uncooperative inventor or cannot be located through reasonable diligent effort.

24. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true. I hereby further declare that these statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. §1001 and that such willful false statements may jeopardize the validity of the application or any patent issued therefrom.

Dated: November 7, 2005

Respectfully submitted,

By \_\_\_\_\_  
Bryan J. Lempia  
Registration No.: 39,746  
MARSHALL, GERSTEIN & BORUN  
233 S. Wacker Drive, Suite 6300  
Sears Tower  
Chicago, Illinois 60606-6357  
(312) 474-6300  
Attorney for Applicant

I hereby certify that this correspondence is being deposited with the U.S. Postal Service with sufficient postage as First Class Mail, in an envelope addressed to: MS Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below.

Dated: November 7, 2005

Signature:

(Bryan J. Kempia)

Docket No.: 29939/03004A  
(PATENT)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of:  
Brandi Loucks et al.

Application No.: 10/773,389

Filed: February 5, 2004

Art Unit: 3727

For: Laundry Basket with Hip Hugging Feature

Examiner: Not Yet Assigned

**PETITION UNDER 37 C.F.R. 1.47(A) ACCOMPANYING PETITION TO REVIVE  
UNDER 37 C.F.R. §1.137(B)**

MS Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

This petition is submitted according to the provisions of 37 C.F.R. §1.47(a) and in response to a Notice to File Missing Parts of Nonprovisional Application that was mailed on May 10, 2004. This petition accompanies our response to the same and a petition to revive this unintentionally abandoned application.

Transmitted with the accompanying Response to Notice to File Missing Parts are Declaration and Power of Attorney documents executed by joint inventors Brandi Loucks (Ms. Loucks) and Thomas W. Scherer (Mr. Scherer), both for themselves and on behalf of their non-signing inventor, Mr. Frederick J. Reber (Mr. Reber). It is asserted herein that the joint inventor, Mr. Reber, has either constructively refused to execute a Declaration for the above-referenced patent application by virtue of his conduct, or has not been located upon diligent effort.

Three Declarations of Facts under 37 C.F.R. §1.47(a), executed by Mr. Bryan J. Lempia, Ms. Meggan F. Duffy and Ms. Muriel K. Gallaher, all of Marshall, Gerstein & Borun LLP, are submitted in support of this petition. The Declarations of Facts reveal that repeated attempts to contact the joint inventor, Mr. Reber, and secure or obtain his signature on a Declaration and Power of Attorney document in this application have been unsuccessful.

The last known address for the non-signing inventor, Mr. Reber, is:

Mr. Fred Reber  
6262 Newkirk Road  
Schreve, Ohio 44676

As shown in the attached Combined Declaration of Facts executed by the undersigned, and the Declarations of Facts of both Ms. Duffy and Ms. Gallaher and their respective Exhibits, repeated attempts have been made to contact Mr. Reber and to secure his signature on a Declaration and Power of Attorney document.

On the basis of the accompanying petition to revive, the facts presented in the attached Declarations of Facts, and the foregoing reasons, it is respectfully requested that the Commissioner accept and grant this petition, as it is presented in accordance with the requirements of 37 C.F.R. §1.47. Consideration and examination of the instant application in due course are respectfully requested.

The Commissioner is hereby authorized to charge Deposit Account 13-2855 under Order No. 29939/03004A in the amount of \$200.00 to cover the requisite fee established by 37 C.F.R. §1.17(g) for this petition.

Application No.: 10/773,389

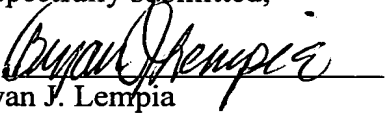
Docket No.: 29939/03004A

Should the Petitions Officer have any questions of form or substance, he or she is encouraged to contact the undersigned attorney at the telephone number and address listed below.

Dated: November 7, 2005

Respectfully submitted,

By

  
Bryan J. Lempia

Registration No.: 39,746

MARSHALL, GERSTEIN & BORUN

233 S. Wacker Drive, Suite 6300

Sears Tower

Chicago, Illinois 60606-6357

(312) 474-6300

Attorney for Applicant

## ASSIGNMENT

Serial No: 10/773,389  
Filed: February 5, 2004  
Title: Laundry Basket with Hip Hugging Feature

For Ten and No 100ths Dollars (\$10.00), and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the undersigned hereby assign to, Rubbermaid, Incorporated 1147 Akron Road, Wooster, Ohio 44691 corporation, (hereinafter "assignee"), its successors and assigns, the entire right, title and interest in the invention or improvements of the undersigned disclosed in an application for Letters Patent of the United States, executed by the undersigned on \_\_\_\_\_, and in said application and any and all other applications, both United States and foreign, which the undersigned may file, either solely or jointly with others, on said invention or improvements, and in any and all Letters Patent of the United States and foreign countries, which may be obtained on any of said applications, and in any reissue or extension thereof.

The undersigned hereby authorize and request the Commissioner of Patents and Trademarks to issue said Letters Patent to said assignee.

The undersigned hereby authorize and request the attorneys of record in said application to insert in this assignment the execution date and/or filing date and serial number of said application when officially known.

The undersigned warrant themselves to be the owners of the interest herein assigned and to have the right to make this assignment and further warrant that there are no outstanding prior assignments, licenses, or other rights in the interest herein assigned.

For said consideration the undersigned hereby agrees, upon the request and at the expense of said assignee, its successors and assigns, to execute any and all divisional, continuation, continuation-in-part and substitute applications for said invention or improvements, and any necessary oath or affidavit relating thereto, and any application for the reissue or extension of any Letters Patent that may be granted upon said application, and any and all applications and other documents for Letters Patent in foreign countries on said invention or improvements, that said assignee, its successors or assigns, may deem necessary or expedient, and for said consideration the undersigned further agree upon the request of said assignee, its successors or assigns, in the event of any application or Letters Patent assigned herein becoming involved in Interference, to cooperate to the best of the ability of the undersigned with said assignee, its successors or assigns, in the matters of preparing and executing the preliminary statement and giving and producing evidence in support thereof, the undersigned hereby agreeing to perform, upon request, any and all affirmative acts to obtain said Letters Patent, both United States and foreign, and vest all rights therein hereby conveyed in said assignee, its successors and assigns, whereby said Letters Patent will be held and enjoyed by said assignee, its successors and assigns, to the full end of the term for which said Letters Patent may be granted as fully and entirely as the same would have been held and enjoyed by the undersigned if this assignment and sale had not been made.

Brandi Loucks  
Brandi Loucks

Thomas W. Scherer

Fred Reber

State of Ohio

County of Wayne

}  
} SS  
}

On this 19th day of April, 2004 before me, a Notary Public in and for the County and State aforesaid, appeared Brandi Loucks, Thomas W. Scherer and Fred Reber, to me personally known to be the same persons whose names are subscribed to the foregoing instrument, and acknowledged that they executed said instrument as their free and voluntary act and for the uses and purposes therein expressed.

WITNESS my hand and seal the same day and year last above given.

My Commission Expires: \_\_\_\_\_

Lynn Browning  
Notary Public

Lynn Browning  
Notary Public  
In and for the State of Ohio  
My Commission Expires  
August 17, 2008



Joint Inventors

WITNESS our hands this 20th day of April, 2004.

Brandi Loucks

Thomas W. Scherer  
Thomas W. Scherer

Fred Reber

State of Ohio

County of Wayne

} SS

On this 20th day of April, 2004 before me, a Notary Public in and for the County and State aforesaid, appeared Brandi Loucks, Thomas W. Scherer and Fred Reber, to me personally known to be the same persons whose names are subscribed to the foregoing instrument, and acknowledged that they executed said instrument as their free and voluntary act and for the uses and purposes therein expressed.

WITNESS my hand and seal the same day and year last above given.

My Commission Expires: \_\_\_\_\_

Lynn Browning  
Notary Public

Lynn Browning  
Notary Public  
In and for the State of Ohio  
My Commission Expires  
August 17, 2008

## DECLARATION FOR PATENT APPLICATION AND POWER OF ATTORNEY

As a below named inventor, I hereby declare that my residence, post office address and citizenship are as stated below next to my name; I believe that I am an original, first and joint inventor of the subject matter which is claimed and for which a patent is sought on the invention entitled "Laundry Basket with Hip Hugging Feature," the specification of which was filed on February 5, 2004 as Application Serial No. 10/773,389. I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment(s) referred to above. I acknowledge the duty to disclose to the Patent and Trademark Office all information known to me to be material to patentability as defined in 37 C.F.R. §1.56.

I hereby claim foreign priority benefits under 35 U.S.C. §119 of any foreign application(s) for patent or inventor's certificate or of any PCT international application(s) designating at least one country other than the United States of America listed below and have also identified below any foreign application(s) for patent or inventor's certificate or any PCT international application(s) designating at least one country other than the United States of America filed by me on the same subject matter having a filing date before that of the application(s) of which priority is claimed:

Priority Claimed

_____ (Application Serial Number)	_____ (Country)	_____ (Day/Month/Year Filed)	<input type="checkbox"/> Yes	<input type="checkbox"/> No
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_____ (Application Serial Number)	_____ (Country)	_____ (Day/Month/Year Filed)	<input type="checkbox"/> Yes	<input type="checkbox"/> No
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I hereby claim the benefit under 35 U.S.C. §119(e) of any United States provisional application(s) listed below:

<u>60/445,278</u> (Application Serial Number)	<u>5 February 2003</u> (Day/Month/Year Filed)
--	--

_____ (Application Serial Number)	_____ (Day/Month/Year Filed)
--------------------------------------	---------------------------------

I hereby claim the benefit under 35 U.S.C. §120 of any United States application(s) or PCT international application(s) designating the United States of America listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior application(s) in the manner provided by the first paragraph of 35 U.S.C. §112, I acknowledge the duty to disclose to the Office all information known to me to be material to patentability as defined in 37 C.F.R. §1.56 which occurred between the filing date of the prior application(s) and the national or PCT international filing date of this application:

_____ (Application Serial Number)	_____ (Day/Month/Year Filed)	_____ (Status-Patented, Pending or Abandoned)
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_____ (Application Serial Number)	_____ (Day/Month/Year Filed)	_____ (Status-Patented, Pending or Abandoned)
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I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. §1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

**POWER OF ATTORNEY:** I hereby appoint as my attorneys, with full powers of substitution and revocation, to prosecute this application and transact all business in the Patent and Trademark Office connected therewith:

John B. Lungmus (18,566)  
 Allen H. Gerstein (22,218)  
 Nate F. Scarpelli (22,320)  
 Michael F. Borun (25,447)  
 Carl E. Moore, Jr. (26,487)  
 Richard H. Anderson (26,526)  
 Patrick D. Ertel (26,877)  
 Richard B. Hoffman (26,910)  
 John A. Zeiler (28,491)

Thomas I. Ross (29,275)  
 Kevin D. Hogg (31,839)  
 Jeffrey S. Sharp (31,879)  
 Martin J. Hirsch (32,237)  
 Richard M. La Barge (32,254)  
 James J. Napoli (32,361)  
 Robert M. Gerstein (34,824)  
 Michael R. Hull (35,902)  
 Anthony G. Silko (36,278)

Roger A. Heppermann (37,641)  
 David A. Goss (38,153)  
 Gregory C. Mayer (38,238)  
 Michael R. Weiner (38,359)  
 Joseph A. Williams, Jr. (38,659)  
 Paul C. Craane (38,851)  
 Bryan J. Lempia (39,746)  
 David C. Read (39,811)

Thomas A. Miller (40,091)  
 William K. Merkel (40,725)  
 Scott E. Baxendale (41,605)  
 Brent E. Matthias (41,974)  
 Sandip H. Patel (43,848)  
 Kevin M. Flowers (44,684)  
 William J. Kramer (46,229)  
 Michael Muczynski (48,642)

Send correspondence to: **Bryan J. Lempia**

**FIRM NAME**  
 Marshall, Gerstein & Borun LLP

**PHONE NO.**  
 312-474-6300

**STREET**  
 6300 Sears Tower  
 233 South Wacker Drive

**CITY & STATE**  
 Chicago, Illinois

**ZIP CODE**  
 60606-6357

Full Name of First or Sole Inventor <b>Brandi Loucks</b>	Citizenship <b>United States</b>
Residence Address - Street <b>3706 Fairway Park Drive, Apt. #210</b>	Post Office Address - Street <b>3706 Fairway Park Drive, Apt. #210</b>
City (Zip) <b>Copley 44321</b>	City (Zip) <b>Coply 44321</b>
State or Country <b>Ohio</b>	State or Country <b>Ohio</b>
Date <input checked="" type="checkbox"/> <b>4-19-2004</b>	Signature <input checked="" type="checkbox"/> <i>Brandi Loucks</i>

Second Joint Inventor, if any <b>Thomas W. Scherer</b>	Citizenship <b>United States</b>
Residence Address - Street <b>1169 Lexview Circle</b>	Post Office Address - Street <b>1169 Lexview Circle</b>
City (Zip) <b>Mansfield 44907</b>	City (Zip) <b>Mansfield 44907</b>
State or Country <b>Ohio</b>	State or Country <b>Ohio</b>
Date <input checked="" type="checkbox"/>	Signature <input checked="" type="checkbox"/>

Third Joint Inventor, if any <b>Fred Reber</b>	Citizenship <b>United States</b>
Residence Address - Street <b>6262 Newkirk Road</b>	Post Office Address - Street <b>6262 Newkirk Road</b>
City (Zip) <b>Shreve 44676</b>	City (Zip) <b>Shreve 44676</b>
State or Country <b>Ohio</b>	State or Country <b>Ohio</b>
Date <input checked="" type="checkbox"/>	Signature <input checked="" type="checkbox"/>

**POWER OF ATTORNEY:** I hereby appoint as my attorneys, with full powers of substitution and revocation, to prosecute this application and transact all business in the Patent and Trademark Office connected therewith:

John B. Lungmus (18,566)  
 Allen H. Gerstein (22,218)  
 Nate F. Scarpelli (22,320)  
 Michael F. Borun (25,447)  
 Carl E. Moore, Jr. (26,487)  
 Richard H. Anderson (26,526)  
 Patrick D. Ertel (26,877)  
 Richard B. Hoffman (26,910)  
 James P. Zeller (28,491)

Thomas I. Ross (29,275)  
 Kevin D. Hogg (31,839)  
 Jeffrey S. Sharp (31,879)  
 Martin J. Hirsch (32,237)  
 Richard M. La Barge (32,254)  
 James J. Napoli (32,361)  
 Robert M. Gerstein (34,824)  
 Michael R. Hull (35,902)  
 Anthony G. Sitko (36,278)

Roger A. Heppermann (37,641)  
 David A. Gass (38,153)  
 Gregory C. Mayer (38,238)  
 Michael R. Weiner (38,359)  
 Joseph A. Williams, Jr. (38,659)  
 Paul C. Craane (38,851)  
 Bryan J. Lempia (39,746)  
 David C. Read (39,811)

Thomas A. Miller (40,091)  
 William K. Merkel (40,725)  
 Scott E. Baxendale (41,605)  
 Brent E. Matthias (41,974)  
 Sandip H. Patel (43,848)  
 Kevin M. Flowers (44,684)  
 William J. Kramer (46,229)  
 Michael Muczynski (48,642)

Send correspondence to: **Bryan J. Lempia**

FIRM NAME	PHONE NO.	STREET	CITY & STATE	ZIP CODE
Marshall, Gerstein & Borun LLP	312-474-6300	6300 Sears Tower 233 South Wacker Drive	Chicago, Illinois	60606-6357

Full Name of First or Sole Inventor <b>Brandi Loucks</b>	Citizenship <b>United States</b>
Residence Address - Street <b>3706 Fairway Park Drive, Apt. #210</b>	Post Office Address - Street <b>3706 Fairway Park Drive, Apt. #210</b>
City (Zip) <b>Copley 44321</b>	City (Zip) <b>Copley 44321</b>
State or Country <b>Ohio</b>	State or Country <b>Ohio</b>
Date <input checked="" type="checkbox"/>	Signature <input checked="" type="checkbox"/>

Second Joint Inventor, if any <b>Thomas W. Scherer</b>	Citizenship <b>United States</b>
Residence Address - Street <b>1169 Lexview Circle</b>	Post Office Address - Street <b>1169 Lexview Circle</b>
City (Zip) <b>Mansfield 44907</b>	City (Zip) <b>Mansfield 44907</b>
State or Country <b>Ohio</b>	State or Country <b>Ohio</b>
Date <input checked="" type="checkbox"/> <b>04/20/04</b>	Signature <input checked="" type="checkbox"/> <i>Thomas W. Scherer</i>

Third Joint Inventor, if any <b>Fred Reber</b>	Citizenship <b>United States</b>
Residence Address - Street <b>6262 Newkirk Road</b>	Post Office Address - Street <b>6262 Newkirk Road</b>
City (Zip) <b>Shreve 44676</b>	City (Zip) <b>Shreve 44676</b>
State or Country <b>Ohio</b>	State or Country <b>Ohio</b>
Date <input checked="" type="checkbox"/>	Signature <input checked="" type="checkbox"/>

## APPLICABLE RULES AND STATUTES

### 37 CFR 1.56. DUTY OF DISCLOSURE - INFORMATION MATERIAL TO PATENTABILITY (Applicable Portion)

(a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is canceled or withdrawn from consideration, or the application becomes abandoned.

Information material to the patentability of a claim that is canceled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§ 1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:

- (1) prior art cited in search reports of a foreign patent office in a counterpart application, and
- (2) the closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentability defines, to make sure that any material information contained therein is disclosed to the Office.

Information relating to the following factual situations enumerated in 35 USC 102 and 103 may be considered material under 37 CFR 1.56(a).

#### 35 U.S.C. 102. CONDITIONS FOR PATENTABILITY: NOVELTY AND LOSS OF RIGHT TO PATENT

A person shall be entitled to a patent unless --

- (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for patent, or
- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of the application for patent in the United States, or

(c) he has abandoned the invention, or

(d) the invention was first patented or caused to be patented, or was the subject of an inventor's certificate, by the applicant or his legal representatives or assigns in a foreign country prior to the date of the application for patent in this country on an application for patent or inventor's certificate filed more than twelve months before the filing of the application in the United States, or

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraph (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent, or

(f) he did not himself invent the subject matter sought to be patented, or

(g) before the applicant's invention thereof the invention was made in this country by another who had not abandoned, suppressed, or concealed it. In determining priority of invention there shall be considered not only the respective dates of conception and reduction to practice of the invention, but also the reasonable diligence of one who was first to conceive and last to reduce to practice, from a time prior to conception by the other.

#### 35 U.S.C. 103. CONDITIONS FOR PATENTABILITY; NON-OBVIOUS SUBJECT MATTER (Applicable Portion)

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

#### 35 U.S.C. 112. SPECIFICATION (Applicable Portion)

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same, and shall set forth the best mode contemplated by the inventor of carrying out his invention.



## UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
 United States Patent and Trademark Office  
 Address: COMMISSIONER FOR PATENTS  
 P.O. Box 1450  
 Alexandria, Virginia 22313-1450  
 www.uspto.gov

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/773,389	02/05/2004		29939/03004A

04743  
 MARSHALL, GERSTEIN & BORUN LLP  
 6300 SEARS TOWER  
 233 S. WACKER DRIVE  
 CHICAGO, IL 60606

CONFIRMATION NO. 6345

## FORMALITIES LETTER



\*OC000000012566995\*

Date Mailed: 05/10/2004

## NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

Docketed: 7-10-04Items Required To Avoid Abandonment:

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The oath or declaration is missing.  
*A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date, is required.*
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(e) of \$130 for a non-small entity, must be submitted with the missing items identified in this letter.

SUMMARY OF FEES DUE:

Total additional fee(s) required for this application is **\$130** for a Large Entity

- **\$130** Late oath or declaration Surcharge.

Replies should be mailed to: Mail Stop Missing Parts  
 Commissioner for Patents  
 P.O. Box 1450  
 Alexandria VA 22313-1450

*A copy of this notice **MUST** be returned with the reply.*

A handwritten signature in cursive script, appearing to read "K. C. Smith", is positioned above a horizontal line.

Customer Service Center

Initial Patent Examination Division (703) 308-1202

PART 1 - ATTORNEY/APPLICANT COPY

MARSHALL, GERSTEIN & BORUN LLP

ATTORNEYS - AT - LAW

Bryan J. Lempia  
(312) 423-3451  
blempia@marshallip.com

April 13, 2004

Ms. Lynn M. Browning  
Legal Assistant  
Newell Rubbermaid, Inc.  
1147 Akron Road  
Wooster, Ohio 44691

Re: U.S. Application Serial No. 10/773,389  
Inventors: Loucks et al.  
Title: "Laundry Basket with Hip Hugging Feature"  
Your Ref.: 03-004  
Our Ref.: 29939/03004A

Dear Lynn:

Enclosed please find an Assignment and a Declaration for execution by Brandi Loucks, Tom Scherer, and Fred Reber for the above-identified application. Please have these documents signed, dated, and, where necessary, notarized. Return them to us at your earliest convenience.

If any of these inventors are no longer with Rubbermaid, please let me know. Feel free to contact me with any questions.

With best regards,



Bryan J. Lempia

BJL:mm  
Enclosures  
cc: Mr. James P. Zeller (w/o encl.)



**MARSHALL, GERSTEIN & BORUN LLP**

ATTORNEYS - AT - LAW

Bryan J. Lempia  
(312) 423-3451  
blempia@marshallip.com

June 8, 2004

Ms. Lynn Browning  
Legal Assistant  
Newell Rubbermaid, Inc.  
1147 Akron Road  
Wooster, Ohio 44691-6000

Re: U.S. Patent Application Serial No. 10/773,389  
Inventor(s): Loucks-et al.  
Title: Laundry Basket with Hip Hugging Feature  
Your Ref.: 03-004  
Our Ref.: 29939/03004A

Dear Lynn:

This letter addresses a number of issues. First, enclosed is a copy of the official filing receipt reporting that the above-identified patent application was filed on February 5, 2004 and assigned Serial No. 10/773,389. This application claims benefit of the earlier filed provisional application filed February 5, 2003.

Second, also enclosed is a copy of the Notice to File Missing Parts received from the United States Patent & Trademark Office (USPTO). To respond to this, we must submit a declaration to the USPTO that has been signed by the inventors by **July 10, 2004**. We have previously sent to you a declaration and assignment for execution by the inventors.

Please have Brandi Loucks and Fred Reber sign and date the documents and return them to us at your earliest convenience. Please note that the assignment should be notarized, if possible. We have already received Tom Scherer's executed documents. If Brandi or Fred has left Rubbermaid, you can forward a copy of these documents to them for execution. Let me know if you would like new copies of the documents.

Third, if the application claims a product that is used or marketed before the patent issues, the apparatus may be marked "Patent Applied For" or "Pat. Pend." This marking should be continued only as long as the application is pending in the U.S. Patent and Trademark Office (USPTO). If the application becomes abandoned, and is the only application which covers the product, the marking should be eliminated. If a patent issues, the patent number should replace this marking.

Lastly, during prosecution of this U.S. application, patent applicants and individuals associated with filing and prosecuting the application have a duty to notify the USPTO of all information that is known to them and material to the examination of the application. As a

MARSHALL, GERSTEIN & BORUN LLP

Ms. Lynn Browning  
June 8, 2004  
Page 2

means of complying with this duty of disclosure, the USPTO encourages applicants to file an information disclosure statement (IDS) shortly after filing of the application. We have filed an IDS citing all prior art currently known to us, a copy of which is enclosed for your file. However, please advise us of any material information known to persons associated with this application for inclusion in the IDS.

This duty of disclosure is ongoing throughout prosecution of the application. Therefore, if persons associated with this application become aware of additional material information at a later date, please advise us so that it can be made of record in the USPTO.

If you have any questions, please contact us.

With best regards,



Bryan J. Lempia

BJL/ss  
Enclosure  
cc: Mr. James P. Zeller (w/o encl.)

## Bryan Lempia

---

**From:** Bryan Lempia  
**Sent:** Tuesday, August 03, 2004 2:46 PM  
**To:** 'Browning, Lynn - WST'  
**Cc:** Rudd, Andrew - Fairlawn  
**Subject:** Assistance in 29939/03004A

Lynn,

For your ID #03-004, we have received the signed declaration and assignments from two of three inventors - Brandi Loucks and Tom Scherer. Could you please try to contact Fred Reber and see if he would/could soon forward his signed copies for this file? Thanks for your assistance. If you would like us to do anything in this matter, just let me know. A one-month extended due date to submit the declaration is coming up on **August 10, 2004**.

Thanks!

Bryan

Bryan J. Lempia  
Marshall, Gerstein & Borun LLP  
233 So. Wacker Drive, Suite 6300  
6300 Sears Tower  
Chicago, IL 60606  
(312)-423-3451: direct  
(312)-474-6300: general  
(312)-474-0448: fax  
blempia@marshallip.com



Bryan J Lempia.vcf  
(3 KB)

## Bryan Lempia

---

**From:** Browning, Lynn - Fairlawn [Lynn.Browning@rubbermaid.com]  
**Sent:** Tuesday, August 03, 2004 2:54 PM  
**To:** Bryan Lempia  
**Subject:** RE: Assistance in 29939/03004A

Sent him out a 2nd request. We don't have a current phone number on file for him. Hopefully he'll respond to the letter. Thanks, Lynn

-----Original Message-----

**From:** Bryan Lempia [mailto:blempia@marshallip.com]  
**Sent:** Tuesday, August 03, 2004 3:46 PM  
**To:** Browning, Lynn - Fairlawn  
**Cc:** Rudd, Andrew - Fairlawn  
**Subject:** Assistance in 29939/03004A

Lynn,

For your ID #03-004, we have received the signed declaration and assignments from two of three inventors - Brandi Loucks and Tom Scherer. Could you please try to contact Fred Reber and see if he would/could soon forward his signed copies for this file? Thanks for your assistance. If you would like us to do anything in this matter, just let me know. A one-month extended due date to submit the declaration is coming up on **August 10, 2004**.

Thanks!

Bryan

Bryan J. Lempia  
Marshall, Gerstein & Borun LLP  
233 So. Wacker Drive, Suite 6300  
6300 Sears Tower  
Chicago, IL 60606  
(312)-423-3451: direct  
(312)-474-6300: general  
(312)-474-0448: fax  
blempia@marshallip.com

<<Bryan J Lempia.vcf>>

The material in this transmission contains confidential information intended only for the addressee. If you are not the addressee, any disclosure or use of this information by you is strictly prohibited. If you have received this transmission in error, please delete it, destroy all copies, and notify Marshall, Gerstein & Borun LLP by telephone (312) 474-6300. Thank you.

THIS MESSAGE MAY CONTAIN INFORMATION THAT IS CONFIDENTIAL AND/OR PROTECTED BY LAW. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION, COPYING OR COMMUNICATION OF THIS MESSAGE IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE CONTACT THE SENDER IMMEDIATELY AND DELETE THE MESSAGE. PLEASE NOTE THAT ALTHOUGH WE WILL TAKE ALL COMMERCIALY REASONABLE EFFORTS TO PREVENT VIRUSES FROM BEING TRANSMITTED FROM OUR SYSTEMS, IT IS THE RESPONSIBILITY OF THE RECIPIENT TO CHECK FOR AND PREVENT ADVERSE ACTION BY VIRUSES ON ITS OWN SYSTEMS .

## **Bryan Lempia**

---

**From:** Bryan Lempia  
**Sent:** Sunday, November 14, 2004 4:02 PM  
**To:** 'Browning, Lynn - Fairlawn'  
**Cc:** Jacqueline Rhodes  
**Subject:** 29939/03004a US; your ref. 03-004

Lynn,

Please forward any last known home address and phone number information you have for Fred Reber ASAP. He still has not returned any signed declaration and assignment to us for this case. Not likely, but have you heard anything from him?

Also, please forward a copy of his signed employment agreement which would indicate his obligation to assign his inventions over to Rubbermaid.

We will perform the necessary procedures at our end to move forward without his signature on the documents, but we'll need his last known address information. Thanks for the help!

Bryan

Marshall, Gerstein & Borun LLP  
main: (312) 474-6300  
fax: (312) 474-0448

**Bryan Lempia**

---

**From:** Browning, Lynn - Fairlawn [Lynn.Browning@rubbermaid.com]  
**Sent:** Monday, November 15, 2004 7:33 AM  
**To:** Bryan Lempia  
**Subject:** RE: 29939/03004a US; your ref. 03-004

The address we have on file for Fred is:

6262 Newkirk Road  
Shreve, OH 44676

-----Original Message-----

**From:** Bryan Lempia [mailto:blempia@marshallip.com]  
**Sent:** Sunday, November 14, 2004 5:02 PM  
**To:** Browning, Lynn - Fairlawn  
**Cc:** Jacqueline Rhodes  
**Subject:** 29939/03004a US; your ref. 03-004

Lynn,

Please forward any last known home address and phone number information you have for Fred Reber ASAP. He still has not returned any signed declaration and assignment to us for this case. Not likely, but have you heard anything from him?

Also, please forward a copy of his signed employment agreement which would indicate his obligation to assign his inventions over to Rubbermaid.

We will perform the necessary procedures at our end to move forward without his signature on the documents, but we'll need his last known address information. Thanks for the help!

Bryan

Marshall, Gerstein & Borun LLP  
main: (312) 474-6300  
fax: (312) 474-0448

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\*\*\*\*\*

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11/23/2004

RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION, COPYING OR COMMUNICATION OF THIS MESSAGE IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE CONTACT THE SENDER IMMEDIATELY AND DELETE THE MESSAGE. PLEASE NOTE THAT ALTHOUGH WE WILL TAKE ALL COMMERCIALY REASONABLE EFFORTS TO PREVENT VIRUSES FROM BEING TRANSMITTED FROM OUR SYSTEMS, IT IS THE RESPONSIBILITY OF THE RECIPIENT TO CHECK FOR AND PREVENT ADVERSE ACTION BY VIRUSES ON ITS OWN SYSTEMS.



**MARSHALL, GERSTEIN & BORUN LLP**

ATTORNEYS AT LAW

*file*

Bryan J. Lempia  
(312) 423-3451  
blempia@marshallip.com

November 29, 2004

Mr. Fred Reber  
6262 Newkirk Road  
Shreve, Ohio 44676

Re: U.S. Patent Application Serial No. 10/773,389  
Inventors: Louks et al.  
Title: Laundry Basket with Hip Hugging Feature  
Your Reference No.: 03-004  
Our Reference No.: 29939/03004A

Dear Fred:

Enclosed please find an assignment document and a declaration document for your signature in the above-identified patent application. The application covers an invention on which you are listed as an inventor and which was invented during your tenure at Rubbermaid.

We can move forward without your signature on these documents. However, the process would be much easier if you could sign, date and return these documents to us in the enclosed, self-addressed, postage pre-paid envelope. We need to submit these documents to the United States Patent and Trademark Office **no later than December 10, 2004**. Therefore, please return them to us as soon as you review them, if possible.

Should you have any questions regarding the nature of these documents, please contact me by telephone at (312) 423-3451 at your convenience. I look forward to receiving these documents returned by you as soon as possible.

With best regards,

*Bryan*

Bryan J. Lempia

BJL:mm  
Enclosure

Ref: 29939/03004A  
Dep: ATTY

Date: 11/29/2004  
Wgt: 1.0 LBS  
DV: 0.00

SHIPPING:	10.21
SPECIAL:	4.62
HANDLING:	0.00
TOTAL:	14.83

Svcs: PRIORITY OVERNIGHT RES  
TRCK: 6253 0286 5206

7002 0860 0004 6890 6761



7002 0860 0004 6890 6761

MARSHALL, GERSTEIN & BORUN LLP

233 South Wacker Drive | 6300 Sears Tower | Chicago, Illinois 60606-6357

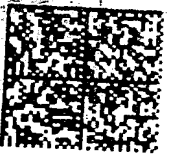
Mr. Fred Reber  
~~6262 Newkirk Road~~  
Shreve, Ohio 44676

29939/03004A

☐ A ☐ INSUFFICIENT ADDRESS  
☐ C ☐ ATTEMPTED NOT KNOWN  
☒ S ☐ NOT SUCH NUMBER/STREET  
☐ NOT DELIVERABLE AS ADDRESSED  
☐ UNABLE TO FORWARD

1ST ATTICE 12-3  
2nd ATTICE 12-8  
RETURN

UNCLAM  
**RTS**  
RETURN TO SENDER



UNITED STATES POSTAGE  
02 1A  
0004370685  
NOV 29 2004  
MAILED FROM ZIP CODE 60606  
**\$ 04.42**

I hereby certify that this correspondence is being deposited with the U.S. Postal Service with sufficient postage as First Class Mail, in an envelope addressed to: MS Missing Parts, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below.

Dated: March 21, 2005

Signature:

*Bryan J. Lempi*  
(Bryan J. Lempi)

Docket No.: 29939/03004B  
(PATENT)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of:  
Brandi Loucks et al.

Application No.: 11/009,722

Filed: December 10, 2004

For: Laundry Basket with Hip Hugging Feature

*Continuation of:* 10/773,389

Confirmation No.: 3585

Art Unit: 1746

Examiner: Not Yet Assigned

**RESPONSE TO NOTICE TO FILE MISSING PARTS OF APPLICATION**

MS Missing Parts  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

In response to the Notice to File Missing Parts of Application – Filing Date Granted mailed February 14, 2005, Applicant respectfully submits Combined Declaration and Power of Attorney documents executed by two of three co-inventors in the related parent application Serial No. 10/773,389 (now abandoned) (with \$130 late filing surcharge) and Part 2 Copy of Notice.

A Declaration has not been executed by a third co-inventor. As a result, this paper is accompanied by a Petition Under 37 C.F.R. §1.47(a) relevant to the non-signing third co-inventor (Fred Reber) together with our check in the amount of \$130.00 in payment of the petition fee. The Petition Under §1.47(a) is accompanied by a Declaration of Facts Under 37 C.F.R. §1.47(a) and appropriate Exhibits.

Our checks in the amount of \$130.00 and \$130.00 covering the fees set forth in 37 CFR §1.17(h) and 1.16(f) are enclosed. The Director is hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith

**BEST AVAILABLE COPY**

Application No.: 11/009,722

Docket No.: 29939/03004B

(or with any paper hereafter filed in this application by this firm) to our Deposit Account No. 13-2855, under Order No. 29939/03004B. *A duplicate copy of this paper is enclosed.*

Dated: March 21, 2005

Respectfully submitted,

By Bryan J. Lempia  
Bryan J. Lempia

Registration No.: 39,746  
MARSHALL, GERSTEIN & BORUN LLP  
233 S. Wacker Drive, Suite 6300  
Sears Tower  
Chicago, Illinois 60606-6357  
(312) 474-6300  
Attorney for Applicant

---



## UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
 United States Patent and Trademark Office  
 Address: COMMISSIONER FOR PATENTS  
 P.O. Box 1450  
 Alexandria, Virginia 22313-1450  
 www.uspto.gov

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
11/009,722	12/10/2004	Brandi Loucks	29939/03004B

04743  
 MARSHALL, GERSTEIN & BORUN LLP  
 6300 SEARS TOWER  
 233 S. WACKER DRIVE  
 CHICAGO, IL 60606

CONFIRMATION NO. 3585

## FORMALITIES LETTER



\*OC000000015174658\*

Date Mailed: 02/14/2005

## NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

*Filing Date Granted*Items Required To Avoid Abandonment:

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The oath or declaration is missing.  
*A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date, is required.*
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(e) of \$130 for a non-small entity, must be submitted with the missing items identified in this letter.

The application is informal since it does not comply with the regulations for the reason(s) indicated below.

The required item(s) identified below must be timely submitted to avoid abandonment:

- Replacement drawings in compliance with 37 CFR 1.84 and 37 CFR 1.121 are required. The drawings submitted are not acceptable because:
  - The drawings must be reasonably free from erasures and must be free from alterations, overwriting, interlineations, folds, and copy marks. See Figure(s) 3, 4.

Applicant is cautioned that correction of the above items may cause the specification and drawings page count to exceed 100 pages. If the specification and drawings exceed 100 pages, applicant will need to submit the required application size fee.

SUMMARY OF FEES DUE:

Total additional fee(s) required for this application is \$130 for a Large Entity

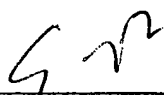
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- \$130 Late oath or declaration Surcharge.

Replies should be mailed to: Mail Stop Missing Parts  
Commissioner for Patents  
P.O. Box 1450  
Alexandria VA 22313-1450

---

*A copy of this notice MUST be returned with the reply.*



---

Customer Service Center

Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE

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## DECLARATION FOR PATENT APPLICATION AND POWER OF ATTORNEY

As a below named inventor, I hereby declare that my residence, post office address and citizenship are as stated below next to my name; I believe that I am an original, first and joint inventor of the subject matter which is claimed and for which a patent is sought on the invention entitled "Laundry Basket with Hip Hugging Feature," the specification of which was filed on February 5, 2004 as Application Serial No. 10/773,389. I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment(s) referred to above. I acknowledge the duty to disclose to the Patent and Trademark Office all information known to me to be material to patentability as defined in 37 C.F.R. §1.56.

I hereby claim foreign priority benefits under 35 U.S.C. §119 of any foreign application(s) for patent or inventor's certificate or of any PCT international application(s) designating at least one country other than the United States of America listed below and have also identified below any foreign application(s) for patent or inventor's certificate or any PCT international application(s) designating at least one country other than the United States of America filed by me on the same subject matter having a filing date before that of the application(s) of which priority is claimed:

Priority Claimed

(Application Serial Number)

(Country)

(Day/Month/Year Filed)

☐ Yes ☐ No

(Application Serial Number)

(Country)

(Day/Month/Year Filed)

☐ Yes ☐ No

I hereby claim the benefit under 35 U.S.C. §119(e) of any United States provisional application(s) listed below:

60/445,278

(Application Serial Number)

5 February 2003

(Day/Month/Year Filed)

(Application Serial Number)

(Day/Month/Year Filed)

I hereby claim the benefit under 35 U.S.C. §120 of any United States application(s) or PCT international application(s) designating the United States of America listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior application(s) in the manner provided by the first paragraph of 35 U.S.C. §112, I acknowledge the duty to disclose to the Office all information known to me to be material to patentability as defined in 37 C.F.R. §1.56 which occurred between the filing date of the prior application(s) and the national or PCT international filing date of this application:

(Application Serial Number)

(Day/Month/Year Filed)

(Status-Patented, Pending or Abandoned)

(Application Serial Number)

(Day/Month/Year Filed)

(Status-Patented, Pending or Abandoned)

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. §1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

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**POWER OF ATTORNEY:** I hereby appoint as my attorneys, with full powers of substitution and revocation, to prosecute this application and transact all business in the Patent and Trademark Office connected therewith:

John B. Lungmus (18,566)  
Allen H. Gerstein (22,218)  
Nate F. Scarpelli (22,320)  
Michael F. Borun (25,447)  
Carl E. Moore, Jr. (26,487)  
Richard H. Anderson (26,526)  
Patrick D. Erel (26,877)  
David H. Huffman (26,910)  
David J. Zeller (28,491)

Thomas I. Ross (29,275)  
Kevin D. Hogg (31,839)  
Jeffrey S. Sharp (31,879)  
Martin J. Hirsch (32,237)  
Richard M. La Borge (32,254)  
James J. Napoli (32,361)  
Robert M. Gerstein (34,824)  
Michael R. Hull (35,902)  
Anthony G. Sitko (36,278)

Roger A. Heppermann (37,641)  
David A. Goss (38,153)  
Gregory C. Mayer (38,238)  
Michael R. Weiner (38,359)  
Joseph A. Williams, Jr. (38,659)  
Paul C. Craune (38,851)  
Bryan J. Lempia (39,746)  
David C. Read (39,811)

Thomas A. Miller (40,091)  
William K. Merkel (40,725)  
Scott E. Baxendale (41,605)  
Brent E. Matthias (41,974)  
Sandip H. Patel (43,848)  
Kevin M. Flowers (44,684)  
William J. Kramer (46,229)  
Michael Muczynski (48,642)

Send correspondence to: **Bryan J. Lempia**

FIRM NAME  
Marshall, Gerstein & Borun LLP

PHONE NO.  
312-474-6300

STREET  
6300 Sears Tower  
233 South Wacker Drive

CITY & STATE  
Chicago, Illinois

ZIP CODE  
60606-6357

Full Name of First or Sole Inventor <b>Brandi Loucks</b>	Citizenship <b>United States</b>
Residence Address - Street <b>3706 Fairway Park Drive, Apt. #210</b>	Post Office Address - Street <b>3706 Fairway Park Drive, Apt. #210</b>
City (Zip) <b>Copley 44321</b>	City (Zip) <b>Copley 44321</b>
State or Country <b>Ohio</b>	State or Country <b>Ohio</b>
Date <input checked="" type="checkbox"/> <b>4-19-2004</b>	Signature <input checked="" type="checkbox"/> <i>Brandi Loucks</i>

Second Joint Inventor, if any <b>Thomas W. Scherer</b>	Citizenship <b>United States</b>
Residence Address - Street <b>1169 Lexview Circle</b>	Post Office Address - Street <b>1169 Lexview Circle</b>
City (Zip) <b>Mansfield 44907</b>	City (Zip) <b>Mansfield 44907</b>
State or Country <b>Ohio</b>	State or Country <b>Ohio</b>
Date <input checked="" type="checkbox"/>	Signature <input checked="" type="checkbox"/>

Third Joint Inventor, if any <b>Fred Reber</b>	Citizenship <b>United States</b>
Residence Address - Street <b>6262 Newkirk Road</b>	Post Office Address - Street <b>6262 Newkirk Road</b>
City (Zip) <b>Shreve 44676</b>	City (Zip) <b>Shreve 44676</b>
State or Country <b>Ohio</b>	State or Country <b>Ohio</b>
Date <input checked="" type="checkbox"/>	Signature <input checked="" type="checkbox"/>

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POWER OF ATTORNEY: I hereby appoint as my attorneys, with full powers of substitution and revocation, to prosecute this application and transact all business in the Patent and Trademark Office connected therewith:

John B. Lungmus (18,566)  
Allen H. Gerstein (22,218)  
Nate F. Scarpelli (22,320)  
Michael F. Borun (25,447)  
Carl E. Moore, Jr. (26,487)  
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Patrick D. Ertel (26,877)  
Richard B. Hoffman (26,910)  
James P. Zeller (28,491)

Thomas I. Ross (29,275)  
Kevin D. Hogg (31,839)  
Jeffrey S. Sharp (31,879)  
Martin J. Hirsch (32,237)  
Richard M. La Barge (32,254)  
James J. Napoli (32,361)  
Robert M. Gerstein (34,824)  
Michael R. Hull (35,902)  
Anthony G. Sitko (36,278)

Roger A. Heppermann (37,641)  
David A. Gass (38,153)  
Gregory C. Mayer (38,238)  
Michael R. Weiner (38,359)  
Joseph A. Williams, Jr. (38,659)  
Paul C. Craane (38,851)  
Bryan J. Lempia (39,746)  
David C. Read (39,811)

Thomas A. Miller (40,091)  
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Scott E. Baxendale (41,605)  
Brent E. Matthias (41,974)  
Sandip H. Patel (43,848)  
Kevin M. Flowers (44,684)  
William J. Kramer (46,229)  
Michael Muczynski (48,642)

Send correspondence to: Bryan J. Lempia

FIRM NAME	PHONE NO.	STREET	CITY & STATE	ZIP CODE
Marshall, Gerstein & Borun LLP	312-474-6300	6300 Sears Tower 233 South Wacker Drive	Chicago, Illinois	60606-6357

Full Name of First or Sole Inventor Brandi Loucks	Citizenship United States
Residence Address - Street 3706 Fairway Park Drive, Apt. #210	Post Office Address - Street 3706 Fairway Park Drive, Apt. #210
City (Zip) Copley 44321	City (Zip) Copley 44321
State or Country Ohio	State or Country Ohio
Date <input checked="" type="checkbox"/>	Signature <input checked="" type="checkbox"/>

Second Joint Inventor, if any Thomas W. Scherer	Citizenship United States
Residence Address - Street 1169 Lexview Circle	Post Office Address - Street 1169 Lexview Circle
City (Zip) Mansfield 44907	City (Zip) Mansfield 44907
State or Country Ohio	State or Country Ohio
Date <input checked="" type="checkbox"/> 04/20/04	Signature <input checked="" type="checkbox"/> Thomas W. Scherer

Third Joint Inventor, if any Fred Reber	Citizenship United States
Residence Address - Street 6262 Newkirk Road	Post Office Address - Street 6262 Newkirk Road
City (Zip) Shreve 44676	City (Zip) Shreve 44676
State or Country Ohio	State or Country Ohio
Date <input checked="" type="checkbox"/>	Signature <input checked="" type="checkbox"/>

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## APPLICABLE RULES AND STATUTES

### 37 CFR 1.56. DUTY OF DISCLOSURE - INFORMATION MATERIAL TO PATENTABILITY (Applicable Portion)

(a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is canceled or withdrawn from consideration, or the application becomes abandoned.

Information material to the patentability of a claim that is canceled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§ 1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:

- (1) prior art cited in search reports of a foreign patent office in a counterpart application, and
- (2) the closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentability defines, to make sure that any material information contained therein is disclosed to the Office.

Information relating to the following factual situations enumerated in 35 USC 102 and 103 may be considered material under 37 CFR 1.56(a).

#### 35 U.S.C. 102. CONDITIONS FOR PATENTABILITY: NOVELTY AND LOSS OF RIGHT TO PATENT

A person shall be entitled to a patent unless --

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for patent, or

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of the application for patent in the United States, or

(c) he has abandoned the invention, or

(d) the invention was first patented or caused to be patented, or was the subject of an inventor's certificate, by the applicant or his legal representatives or assigns in a foreign country prior to the date of the application for patent in this country on an application for patent or inventor's certificate filed more than twelve months before the filing of the application in the United States, or

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraph (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent, or

(f) he did not himself invent the subject matter sought to be patented, or

(g) before the applicant's invention thereof the invention was made in this country by another who had not abandoned, suppressed, or concealed it. In determining priority of invention there shall be considered not only the respective dates of conception and reduction to practice of the invention, but also the reasonable diligence of one who was first to conceive and last to reduce to practice, from a time prior to conception by the other.

#### 35 U.S.C. 103. CONDITIONS FOR PATENTABILITY; NON-OBVIOUS SUBJECT MATTER (Applicable Portion)

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

#### 35 U.S.C. 112. SPECIFICATION (Applicable Portion)

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same, and shall set forth the best mode contemplated by the inventor of carrying out his invention.

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JUN 16 2005

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MARSHALL, GERSTEIN & BORUN LLP  
233 S. WACKER DRIVE, SUITE 6300  
SEARS TOWER  
CHICAGO, IL 60606

MARSHALL GERSTEIN

COPY MAILED

JUN 07 2005

OFFICE OF PETITIONS

In re Application of  
Loucks, et al.  
Application No. 11/009,722  
Filed: December 10, 2004  
Atty. Dkt. No.: 29939/03004B  
For: LAUNDRY BASKET WITH HIP  
HUGGING FEATURE

:  
: DECISION REFUSING STATUS  
: UNDER 37 CFR 1.47(a)  
:  
:  
:  
:

8/7/05  
~~Docketed~~

This decision is in response to the petition under 37 CFR 1.47(a), filed March 25, 2005.

The petition is DISMISSED.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the legal representative of the deceased inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed December 10, 2004 without an executed oath or declaration. Accordingly, a Notice to File Missing Parts of Nonprovisional Application was mailed February 14, 2005 requiring, *inter alia*, an executed oath or declaration and a surcharge to wit the instant petition was filed.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

As to item (1) set forth above, petitioners state that inventor Fred Reber cannot be located or contacted. Petitioners indicate that attempts to reach the non-signing inventor at the non-signing inventor's last known address were unsuccessful as a packet was returned to sender as "unclaimed" by the United States Postal Service and that to date no response to a packet sent to the non-signing inventor via courier service has been received. These attempts to contact the non-signing inventor were in connection with U.S. App. No. 10/733,789 and not the instant application.

Petitioners have failed to establish that the non-signing inventor cannot be located or that diligent effort has been exerted to locate the non-signing inventor. Where inability to reach or locate a non-signing inventor is alleged, petitioners are required to establish that diligent effort was made to locate the non-signing inventor and provide the non-signing inventor with a complete copy of the patent application (specification, including claims, drawings, and oath or declaration). Petitioners have not established that diligent effort has been made to locate the non-signing inventor for presentation of the application papers.

Any renewed petition must be supported by evidence that sufficiently establishes that despite diligent effort, the non-signing inventor cannot be located. A statement of facts should be submitted that fully describes the exact facts that are relied on to establish that a *diligent effort* was made to locate the non-signing inventor. The statement of facts must be signed, where at all possible, by a person having *firsthand knowledge* of the facts recited therein. Statements based on hearsay, will not normally be accepted. At the very least, a search of the internet, human resource records, telephone directories, etc. should be undertaken in regions where it is suspected the non-signing inventor may reside. Petitioner should reference and supply evidence of any such searches in a renewed petition. See, MPEP 409.03(d).

As to item (2), an oath or declaration in compliance with 37 CFR 1.63 is required. The declaration filed herewith is not acceptable as it relates to App. No. 10/733,389. Petitioners are required to submit a newly executed oath or declaration for the instant application in accordance with 37 CFR 1.63. Petitioners cannot rely upon 37 CFR 1.63(d) as the declaration submitted in the prior application was not properly executed in accordance with 37 CFR 1.63.

As to item (3), the current petition fee for a petition under 37 CFR 1.47 is \$200.00. Petitioners have submitted \$130.00. Thus, the remaining \$70.00 has been charged to Deposit Account No. 13-2855.

As to item (4), the petition has set forth the last known address of the non-signing inventor.

Further correspondence with respect to this matter should be addressed as follows:

By mail:

**Mail Stop Petition**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

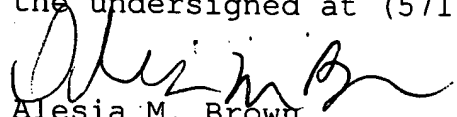
By facsimile:

(703) 872-9306

By hand:

U.S. Patent and Trademark Office  
Customer Service Window  
Mail Stop Petition  
Randolph Building  
401 Dulany Street  
Alexandria, VA 22314

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.



Alesia M. Brown  
Petitions Attorney  
Office of Petitions

Application No.: 10/773,389

Docket No.: 29939/03004A  
(PATENT)

I hereby certify that this correspondence is being deposited with the U.S. Postal Service with sufficient postage as First Class Mail, in an envelope addressed to: MS Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below.

Dated: November 7, 2005

Signature: 

(Bryan J. Lempia)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of:  
Brandi Loucks et al.

Application No.: 10/773,389

Filed: February 5, 2004

Art Unit: 3727

For: Laundry Basket with Hip Hugging Feature

Examiner: Not Yet Assigned

**DECLARATION OF FACTS UNDER 37 C.F.R. 1.47(A)**

MS Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

I, Meggan F. Duffy, hereby state as follows:

1. I make this Declaration of Facts regarding the facts and circumstances known to me concerning the inability to secure a signed or executed Declaration of a co-inventor, Mr. Fred J. Reber (Mr. Reber), in the above-identified patent application (application).

2. To date, I have not been able to either locate or contact Mr. Reber. On August 4, 2005, I spoke with Ms. Lynn Browning (Ms. Browning), the intellectual property paralegal and coordinator for Rubbermaid. In response to my questions, she stated that Rubbermaid's Human Resources records show that Mr. Reber's full name is "Frederick J. Reber." She further stated that Rubbermaid's last known address on file for Mr. Reber is:

6262 Newkirk Road  
Shreve, Ohio 44676

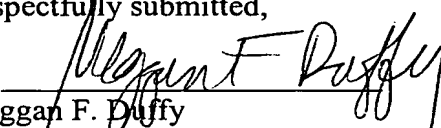
3. In addition, I conducted two internet searches using Yahoo's People Search feature. Neither search nor a related call revealed any new accurate address or telephone contact information for Mr. Reber. More specifically, a search for Mr. Reber directed to Ohio alone did not find any matching results. A copy of the search results are attached hereto as *Exhibit A*. In addition, a search for Mr. Reber directed to the entire United States found nine potential matches; a copy of the search results is attached hereto as *Exhibit B*. However, only one of the matches from this search closely corresponded to Mr. Reber's correct full name, as provided to us by Ms. Browning. An attempt to contact Mr. Reber at a number provided for this listing that most closely matched Mr. Reber's full name was unsuccessful.

3. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true. I hereby further declare that these statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. §1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Dated: October 7, 2005

Respectfully submitted,

By

  
Meggan F. Duffy

MARSHALL, GERSTEIN & BORUN  
233 S. Wacker Drive, Suite 6300  
Sears Tower  
Chicago, Illinois 60606-6357  
(312) 474-6300

[Yahoo!](#) [My Yahoo!](#) [Mail](#)**YAHOO! PEOPLE SEARCH**Welcome, **mfduffy\_82397**  
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Your People Search:

[Create / Edit My Listing - Rem](#)first  last  city  state  SPONSOR RESULTS BY INTELIUS ([What's this?](#))

- **Fred Reber Unlisted Phone Number & Address Found.** - Information was found in Public Records including Age, Address History and Family Members.  
[www.intelius.com](http://www.intelius.com)

Sorry, we didn't find any people matching Fred Reber, Ohio.

## Suggestions:

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- Do a Yahoo! Search of the web for [Fred Reber, Ohio](#).

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- **Public Records has Current Phone Number and Address for Fred Reber** - Records include Date of Birth, Address History and Family Members.  
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Your People Search:

[Create / Edit My Listing - Rem](#)first  last  city  state  SPONSOR RESULTS BY INTELIUS ([What's this?](#))

- **Fred Reber - New Unlisted Number, Address and Address History Available.** Find An Number and Address with Age, Date of Birth, and Family Members. Search by Maiden name, Spouse Name, PI or Social Security Number.

[www.intelius.com](http://www.intelius.com)

## PEOPLE SEARCH RESULTS 1 - 9 out of about 9.

Name	ADVERTISEMENT	Address	Phone
<b><u>Frederick G Reber</u></b>	<a href="#">Instant Background Check</a> <a href="http://www.intelius.com">www.intelius.com</a>	488 Irving Ave Bridgeton, NJ <a href="#">Add to Address Book, Map</a>	(856) 459-9392
<b><u>Fred W Reber</u></b>	<a href="#">Instant Background Check</a> <a href="http://www.intelius.com">www.intelius.com</a>	4402 S Blackburn Cv Mapleton, IL <a href="#">Add to Address Book, Map</a>	(309) 697-8509
<b><u>Fred Reber</u></b>	<a href="#">Instant Background Check</a> <a href="http://www.intelius.com">www.intelius.com</a>	510 Shorely Dr Barrington, IL <a href="#">Add to Address Book, Map</a>	(847) 381-4495
<b><u>Fred J Reber</u></b>	<a href="#">Instant Background Check</a> <a href="http://www.intelius.com">www.intelius.com</a>	Saint Joseph, MN <a href="#">Add to Address Book, Map</a>	(320) 363-8883
<b><u>Fred R Reber</u></b>	<a href="#">Instant Background Check</a> <a href="http://www.intelius.com">www.intelius.com</a>	1542 County Rd R Emporia, KS <a href="#">Add to Address Book, Map</a>	(620) 342-7062
<b><u>Fred Reber</u></b>	<a href="#">Instant Background Check</a> <a href="http://www.intelius.com">www.intelius.com</a>	4128 E Longfellow Ave Spokane, WA <a href="#">Add to Address Book, Map</a>	(509) 483-4219
<b><u>Fred Reber</u></b>	<a href="#">Instant Background Check</a> <a href="http://www.intelius.com">www.intelius.com</a>	1572 Naff Rd Colville, WA <a href="#">Add to Address Book, Map</a>	(509) 684-8814
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Application No.: 10/773,389

Docket No.: 29939/03004A  
(PATENT)

I hereby certify that this correspondence is being deposited with the U.S. Postal Service with sufficient postage as First Class Mail, in an envelope addressed to: MS Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below.

Dated: November 7, 2005

Signature: 

(Bryan J. Lempia)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of:  
Brandi Loucks et al.

Application No.: 10/773,389

Art Unit: 3727

Filed: February 5, 2004

For: Laundry Basket with Hip Hugging Feature

Examiner: Not Yet Assigned

**DECLARATION OF FACTS UNDER 37 C.F.R. 1.47(A)**

MS Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

I, Muriel K. Gallaher, hereby state as follows:

1. I make this Declaration of Facts regarding the facts and circumstances known to me concerning the inability to secure a signed or executed Declaration of a co-inventor, Mr. Fred J. Reber (Mr. Reber).

2. I am an assistant to Ms. Meggan F. Duffy (Ms. Duffy) at Marshall, Gerstein & Borun LLP. Ms. Duffy asked for my help in trying to locate the co-inventor, Mr. Reber.

3. To date, I have not been able to either locate or contact Mr. Reber. I tried to contact Mr. Reber using possible contact information found in a list of search results from a Yahoo People Search directed to Mr. Reber. A copy of the list of search results is attached hereto as *Exhibit A*. I first called a Minnesota number, 1-320-363-8883, corresponding to "Fred J. Reber," as provided in the list of search results, because this data matched Mr.

Reber's known full name. After dialing the number, I spoke with a woman and asked her whether a Mr. Reber, who I identified as formerly of Rubbermaid, Inc. and a U.S. inventor, was available. She responded in a rather hostile manner that Mr. Reber "is no longer here so it would just be futile." She then hung up the phone before I could ask her any additional questions.

3. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true. I hereby further declare that these statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. §1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Dated: September 29, 2005

Respectfully submitted,

By 

Muriel K. Gallaher

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